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TO MAKE THE SELECT COMMITTEE ON INDIAN AFFAIRS A PERMANENT SELECT COMMITTEE OF THE SENATE

SEPTEMBER 16 (legislative day, JUNE 2), 1980.—Ordered to be printed

Mr. PELL, from the Committee on Rules and Administration, submitted the following

COMPLETED
ORIGINAL

REPORT

together with

MINORITY VIEWS

[To accompany S. Res. 448]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 448) to make the Select Committee on Indian Affairs a permanent committee of the Senate, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the resolution as amended be agreed to.

PURPOSE

Senate Resolution 448 as referred would amend section 105 of Senate Resolution 4, 95th Congress, agreed to February 4, 1977, by making the Select Committee on Indian Affairs a permanent select committee of the Senate.

GENERAL STATEMENT

The status of American Indians, and the policies of the Federal Government toward them, has been a recurrent and troublesome problem through most of the history of the United States. It has been only in recent years, however, that broad public concern has developed over the Federal Government's American Indian policies and the consequences of those policies for American Indians, their cultures, and their economic, physical, and social conditions.

As a result of growing public concern over these issues, the Congress in 1974 established the Amerian Indian Policy Review Commission (AIPRC), with a mandate to undertake a comprehensive study of

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the conduct of Indian affairs. It was the first such comprehensive study conducted in 50 years.

The AIPRC concluded its study and submitted its report to the Congress on May 17, 1977. Included in the report were 206 recommendations for improvement of Federal Government policies and practices in its relations with American Indians. One of those recommendations was the establishment of permanent committees on Indian affairs in both the House of Representatives and the Senate.

On February 4 of that same year, the Senate adopted, by a vote of 89 to 1, Senate Resolution 4, which reformed and reorganized the committee structure of the Senate. While eliminating several Senate committees to streamline the functioning of the Senate, Senate Resolution 4 established a temporary Select Committee on Indian Affairs, specifically to consider and act on the recommendations of the American Indian Policy Review Commission.

The rationale of the Committee on Rules and Administration in recommending establishment of the Select Committee on Indian Affairs was clear. There was an evident need for a committee whose members could focus full attention on Indian affairs legislation with the assistance of an adequate staff with expertise in that field.

The life of the select committee was limited by Senate Resolution 4 to the 95th Congress in the expectation that this would allow sufficient time for it to complete its work on the recommendations of the AIPRC and other related Indian affairs matters. Because the life of the select committee was limited to 2 years, Senate Resolution 4 also exempted it from the committee membership limitations established by Senate Resolution 4, because it would be unreasonable to expect Senators to yield membership and seniority on other permanent committees to serve on a temporary select committee.

The Committee on Rules and Administration believes that the performance of the Select Committee on Indian Affairs during past Congresses has justified its decision and that of the Senate, in establishing the select committee. During the 95th and 96th Congresses the Select Committee on Indian Affairs has considered more than half of the recommendations of the AIPRC and has reported to the Senate more than 50 pieces of legislation.

History of the Legislation

Early in the second session of the 95th Congress, Senator Abourezk and 13 cosponsors submitted Senate Resolution 405, to make the temporary select committee permanent. The resolution was the subject of a hearing in the Rules Committee, and the measure was reported with an amendment striking the language making the select committee a permanent select committee, and substituting language extending the life of the select committee through January 2, 1981. The exemption from committee membership limitations was continued. This measure subsequently received full Senate approval. Adoption of the extension was a recognition that the select committee had not completed consideration of all of the AIPRC recommendations, and that the many issues confronting the Indians and Federal Government would be best handled through the select committee mechanism.

Senate Resolution 448 was submitted by Senator Melcher and 28 cosponsors on May 22, 1980. On June 25, 1980, the Rules Committee held a hearing on the resolution, receiving testimony from the following U.S. Senators: Hon. John Melcher, Hon. Daniel Inouye, and Hon. Adlai Stevenson. The committee also heard testimony from Kenneth Black, executive director of the National Tribal Chairman's Association; Ronald Andrade, executive director of the National Congress of American Indians; Alan Parker, American Indian Lawyer Training Program; and Ada Deer, Native American Rights Fund.

Background and Committee Action

Senate Resolution 448, as referred, was designed to convert the temporary Select Committee on Indian Affairs into a prmanent select committee and to repeal the prior provisions of a Senate resolution pursuant to which the select committee's jurisdiction would have automatically transferred on January 3, 1981, to the Senate Committee on Labor and Human Resources. As amended by the Rules Committee, the resolution establishes a permanent Select Committee on Indian Affairs in the Senate, designates it as a class B committee, and provides that for the continuity purposes set forth in paragraph 1 of rule XXV of the Standing Rules of the Senate the new select committee shall be deemed a standing committee of the Senate. The amendments also provide that all members and the chairman of the select committee shall henceforth, effective with the beginning of the 97th Congress, be elected and appointed in the same manner as are all committee members and chairmen of standing committees in the Senate.

The temporary Senate Select Committee on Indian Affairs was granted an exception from the provision of paragraph 4 of rule XXV, which limits to one the number of class B committees upon which a Member may serve. This exception is terminated by the Rules Committee amendments, but the present members of the Indian Affairs Committee may continue to serve on the select committee plus one other class B committee. This exempion is granted so long as their service on the select committee is continuous and so long as such "grandfathering" is approved by the caucuses of the respective parties.

Although the temporary select committee would become a permanent select committee immediately upon adoption of Senate Resolution 448, it is not intended that there be immediate action to appoint new members to the select committee prior to the time when all other committee assignments are made at the commencement of the 97th Congress. The intention is that present members will continue to serve, as do members of all other permanent committees, until such new assignments are approved by the Senate in the 97th Congress. In this manner, their continuity of service would be maintained.

The amended resolution represents a significant compromise in order to accommodate the concerns of those Members who strongly oppose the creation of new committees in the Senate and the creation of committee assignment exceptions to the limitation rules. In its reported form, it is believed to have accomplished the major objectives of the original proponents and supporters of a permanent Select Committee on Indian Affairs without seriously reducing such select committee's

ability to attract knowledgeable, interested, and qualified Senators to its membership.

There is obvious merit in the principle established of limiting the proliferation of committees and committee assignments as established in Senate Resolution 4. At the same time, the Rules Committee believes there are significant efficiencies of operation which the permanent select committee will serve, such as minimizing the overlap or duplication of effort by committees and encouraging expeditious committee action.

In addition, the committee does not believe that creation of this permanent select committee will increase either the financial costs to the Senate or the demands upon the time of committee Members. Nor will it create a precedent for the establishment of other committees; the history and relationship of Native Americans to the Federal Government is unique enough that no other group and no other subject matter would qualify for a committee designation, under the limits of this resolution.

Changes in Section 105 of Senate Resolution 4, 95–1, Agreed to February 4, 1977

Changes in section 105 of Senate Resolution 4, agreed to February 4, 1977, made by Senate Resolution 448, as reported by the Committee on Rules and Administration, are as follows (existing text proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing text in which no change is proposed is shown in roman):

[Sec. 105. (a)(1) There is established a temporary Select Committee on Indian Affairs (hereafter in this section referred to as the "select committee") which shall consist of five members, three to be appointed by the President of the Senate from among members of the majority party and two to be appointed by the President of the Senate from among members of the minority party. The select committee shall select a chairman from among its members.]

Sec. 105. (a)(1) There is established a Select Committee on Indian Affairs (hereafter in this section referred to as the "select committee") which shall consist of five members and, effective beginning with the Ninety-seventh Congress, such members and the chairman of the select committee shall be appointed in the same manner and at the same time as the members and chairman of the standing committee of the Senate. The select committee shall be considered a standing committee for the purposes of paragraph 1 of Rule XXV of the Standing Rules of the Senate. The Senators who were serving as members of the Temporary Select Committee on Indian Affairs on the date preceding adoption of the Senate Resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate (Senate Resolution 448, Ninety-sixth Congress) shall serve as members of the permanent select committee from the date of adoption of such resolution until the commencement of the Ninety-seventh Congress.

(2) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the select

committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee shall adopt rules of procedure not inconsistent with this section and the rules of the Senate governing standing committees of the Senate.

(3) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(4) [For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.] (Repealed.)

(b)(1) All proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs shall be referred to the select committee.

(2) It shall be the duty of the select committee to conduct a study of any and all matters pertaining to problems and opportunities of Indians, including but not limited to, Indian land management and trust responsibilities, Indian education, health, special services, and loan programs, and Indian claims against the United States.

(3) The select committee shall from time to time report to the Senate, by bill or otherwise, its recommendations with respect to matters referred to the select committee or otherwise within its jurisdiction.

(c)(1) For the purposes of this section, the select committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(3) Subpenas authorized by the select committee may be issued over the signature of the chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or the member signing the subpena.

(d) [The select committee shall cease to exist on January 2, 1981, and effective on January 3, 1981, jurisdiction over the matters specified in subsection (b)(1) and the duty specified in subsection (b)(2) are transferred to the Committee on Labor and Human Resources.] (Repealed.)

Changes in the Standing Rules of the Senate

Changes in the Standing Rules of the Senate made by Senate Resolution 448, as reported by the Committee on Rules and Administration,

are shown as follows (existing text proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing text in which no change is proposed is shown in roman):

PARAGRAPHS 3 (b) AND (c) OF RULE XXV OF THE STANDING RULES OF THE SENATE

3. (a) * * *.

(b) Each of the following committees and joint committees shall consist of the number of Senators (or Senate members, in the case of a joint committee) set forth in the following table on the line on which the name of that committee appears:

Committee:	*Members*
Aging	12
Indian Affairs	*5*
Intelligence	15
Small Business	17
Joint Economic Committee	10

(c) Each of the following committees and joint committees shall consist of the number of Senators (or Senate members, in the case of a joint committee) set forth in the following table on the line on which the name of that committee appears:

Committee:	*Members*
Ethics	6
[Indian Affairs	5]
Joint Committee on Taxation	5

PARAGRAPH 4 OF RULE XXV OF THE STANDING RULES OF THE SENATE

4. (a) Except as otherwise provided by this paragraph—

(1) each Senator shall serve on two and no more committees listed in paragraph 2; and

(2) each Senator may serve on only one committee listed in paragraph 3(a) or (b).

* * * * * * *

(i)(1) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of three committees listed in paragraph 2 (as this rule was in effect on such day) may, during the term he is serving on the first day of the Ninety-sixth Congress, continue to serve as a member of each of such committees so long as his service as a member of each such committee is continuous.

(2) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of the Committee on Energy and Natural Resources and the Committee on the Judiciary may, during the term which he is serving on the first day of the Ninety-sixth Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each of such committees is continuous, but in no event may he serve by reason of this subparagraph, as a member of more than three committees listed in paragraph 2.

(3) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations or the Committee on Finance may, during the term which he is serving on the

first day of the Ninety-sixth Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each of such committees is continuous, but in no event may he serve, by reason of this subparagraph, as a member of more than three committees listed in paragraph 2.

(4) A Senator who on the last day of the Ninety-fifth Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Banking, Housing, and Urban Affairs may, during the term which he is serving on the first day of the Ninety-sixth Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each of such committees is continuous, but in no event may he serve, by reason of this subparagraph, as a member of more than three committees listed in paragraph 2.

(5) Notwithstanding the provisions of paragraph 4(a)(2) of this rule, a Senator who on the last day of the Ninety-sixth Congress is serving as a member of the Select Committee on Indian Affairs may, so long as his service as a member of such committee is continuous, continue to serve on such committee, subject to the approval of his respective party caucus.

COMMITTEE ROLLCALL VOTES

In compliance with paragraph 7 (b) and (c) of rule XXVI of the Standing Rules of the Senate, the record of rollcall votes in the Committee on Rules and Administration during its consideration of Senate Resolution 448 is as follows:

1. On an amendment proposed by Senator Cannon: To eliminate for all Senators, including present Members of the select committee, the exemption under paragraph 4 of rule XXV, which limits to one the number of class B committees upon which a Member may serve. Rejected: 6 nays, 3 yeas.

YEAS	NAYS
Mr. Pell	Mr. Williams
Mr. Cannon	Mr. Ford
Mr. Robert C. Byrd*	Mr. DeConcini
	Mr. Hatfield
	Mr. Baker*
	Mr. Tower*

2. On a motion by Senator Hatfield: That Senate Resolution 448, as amended, and Senate Resolution 510, without amendment, be reported favorably to the Senate. Approved: 7 yeas, 1 nay.

YEAS	NAYS
Mr. Pell	Mr. Cannon
Mr. Williams	
Mr. Ford	
Mr. DeConcini	
Mr. Hatfield	
Mr. Baker*	
Mr. Tower*	

*By proxy.

MINORITY VIEWS OF MR. CANNON

Throughout my years of service in the Senate, I have been and will continue to be a strong defender of the needs of our Native Americans. I fully realize the responsibilities that are placed before the Senate in dealing with Indian matters. These responsibilities—economic development of Indian reservations, energy resources of tribes, conflicts over Indian rights to water, natural resources, and hunting and fishing grounds, and the settlement of land claims in many States—are serious problems of vital importance to our Indian population.

Unfortunately the creation of a permanent Select Committee on Indian Affairs pursuant to Senate Resolution 448 would not establish an effective mechanism for the resolution of these problems. Instead Senate Resolution 448 would be a disservice to both Native Americans and the Senate because it suffers from five fatal flaws. These flaws are:

(1) Creation of a new permanent committee will signal that the Senate is unwilling to defend the reforms achieved through the committee reorganization of 1977;

(2) Adoption of the resolution will hamper rather than promote the effective consideration of Indian problems.

(3) Adoption of the resolution will encourage the proliferation of other new Senate committees;

(4) Creation of a permanent committee will only reaffirm the axion that ultimately all temporary committees become permanent committees; and

(5) The likely exemption of the current members of the select committee from the limitations on committee assignments is unfair, unwise, and unnecessary.

Because of the very serious consequences that would arise from the adoption of Senate Resolution 448, I hope every Senator will carefully consider these points before voting on this issue.

ABANDONMENT OF THE REFORMS OF THE COMMITTEE REORGANIZATION OF 1977

The Committee Reorganization Amendments of 1977 (S. Res. 4 as adopted by the 95th Congress) were brought about by a consensus that in many ways the committee system was working to make the Senate less rather than more effective. The proliferation of committees, subcommittees and Senate staff had resulted in many Senators rushing from one conflicting committee meeting to another only to frequently find that no committee was capable of achieving a quorum.

The committee reorganization was attained painfully with nearly every Senator giving up jurisdictions, assignments, and even chairmanships or ranking minority positions on committees and subcommittees to make the reorganization useful. Some Senators gave up committees with jurisdictions over subjects of high interest to them

personally or politically. Some relinquished several subcommittee chairmanships or a full committee chairmanship or ranking minority position. Some gave up important and experienced staff. Some gave up as many as 18 or 20 committee and subcommittee assignments. Senators, by voting for Senate Resolution 4, relinquished an average of six assignments each. Several Senators agreed to give up long-held assignments on major committees to which they had a "right" established in law by the 1970 Legislative Reorganization Act.

At the time of these painful sacrifices, the sponsors of Senate Resolution 4 made it very clear that if the committee reorganization was to be successful, the Senate would have to be willing to continually defend the new structure in order to preserve its integrity. We all knew that there would be continuous requests to "bend the rules" in order to accommodate some particular situation. Moreover each such request would be justified—as is the case in Senate Resolution 448—under the rationale that if you bend the rules just this once to accommodate a "unique" situation, we will never ask you do it again.

The truth is this situation is going to occur again and again. What really makes the current situation unique is the fact that the Senate's actions on Senate Resolution 448 will signal whether or not the Senate has the resolve to defend the reforms achieved through the Committee Reorganization Amendments of 1977. We will either send forth a signal that we intend to stick by the current rules or we will send forth a signel that our concern over preserving the effectiveness of the committee system is over until a new crisis arises.

Every Senator knows that even under the current restrictions it is difficult to find sufficient time to give proper consideration to all of his committee responsibilities. If we start to create new committees and to increase the number of committee assignments for each Senator, it will not be long before we are once again faced with a committee system that is strangled by its own weight.

Thus the vote of Senate Resolution 448 is of crucial importance for it may well determine whether the Senate continues to function efficiently or whether we backslide into another crisis that requires radical reorganization. Clearly we should not casually abandon the hard won reforms of the Committee Reorganization Amendments of 1977. This is particularly true in the instant case in which the creation of a new permanent committee is not justified.

ADOPTION OF THE RESOLUTION WOULD HAMPER RATHER THAN PROMOTE EFFECTIVE CONSIDERATION OF INDIAN PROBLEMS

The proponents of Senate Resolution 448 claim that a permanent committee is necessary to deal with the special issues and legislation that affect Native Americans. In my view, however, the creation of a new separate committee will hamper rather than promote the effective consideration of Indian problems.

Under current law, the Temporary Select Committee on Indian Affairs will cease to exist on January 3, 1981, and its jurisdiction will be transferred to the Standing Committee on Labor and Human Resources. This reflects the judgment of the Senate in the 95th Congress that Native Americans will receive more effective consideration by an active subcommittee of the Human Resources Committee than by a

separate minor committee. I believe this decision was correct and is still correct.

Certainly no one can question the ability of the Human Resources Committee to do the job. This committee is responsible for fashioning and overseeing programs in all the principal areas of social legislation including jobs, job training, education, health, equal employment opportunity and social welfare. This committee also has both a long standing commitment and a solid record in assuring that these programs are especially effective in meeting the special needs of minorities and underpriviledged groups. Thus to isolate the needs of Native Americans in a separate minor committee may ultimately hamper rather than promote the effective consideration of many Indian problems.

A case in point is the Subcommittee on Science, Technology and Space which formerly was the Standing Committee on Aeronautical and Space Sciences but now is a Subcommittee of the Committee on Commerce, Science, and Transportation. In testimony before the Rules Committee on June 25 of this year, Senator Stevenson (who was chairman of both the former full committee and the current subcommittee) stated that space policy is currently "given more serious, responsible, constructive attention" and this improvement was a direct result of the transfer of space policy matters to a subcommittee within a major standing committee.

Along with the Aeronautical and Space Sciences Committee the former Committees on Post Office and the District of Columbia became subcommittees of major standing committees as part of the 1977 reorganization. The Senate also consolidated two select committees within major standing committees—those on Nutrition and Human Needs and the Committee to Study the Senate Committee System—and two joint committees—Congressional Operations and on Defense Production. The groups most interested in these consolidated committees still receive full hearings, and concerned attention from subcommittees within strong and major standing committees or in the full committees themselves. These groups also benefit from the greater resources, expertise, and jurisdictional scope of the standing committee.

In short, past experience shows that the problems of Native Americans will receive more effective consideration by an active subcommittee of a standing committee than by a separate minor committee. It also shows that the transition of responsibility from the old committee to the new committee can be accomplished relatively easily, with experienced staff retained. For these reasons I believe the decision of the Senate to transfer the jurisdiction of the Temporary Select Committee to the Committee on Labor and Human Resources is correct and should be carried out.

ADOPTION OF THE RESOLUTION WILL ENCOURAGE THE PROLIFERATION OF NEW COMMITTEES

The proponents of Senate Resolution 448 would like for us to consider this issue as an isolated case. We should simply bypass the rules, establish a new committee and business will go on as usual. Unfortunately this is not the case.

The creation of a new permanent Select Committee on Indian Affairs establishes a clear precedent for the creation of other new committees. If it is really true that the special needs of Indians cannot be effectively considered under the current committee system, is not the same true of the special needs of other important groups within our society?

The point is, that if the current committee system is unable to give effective consideration to the special needs of Native Americans (and I do not believe this to be the case), an equally compelling argument can be made for dozens of other special or select committees. And no one should delude themselves into thinking that as time goes on, we will not be faced with these additional requests to establish new special and select committees. Moreover I predict that each of these requests will be based upon the justification that creation of each new special or select committee is an isolated case justified by the special circumstances in that case.

We all know that we are going to face these requests for new special and select committees in the future. Indeed the only question is whether the Senate is going to establish the precedent of approving such requests by creating a permanent Select Committee on Indian Affairs. For make no mistake the establishment of such a precedent today will make it much harder to reject requests for new special and select committees in the future.

CREATION OF A NEW PERMANENT COMMITTEE WILL REAFFIRM THE AXIOM THAT ALL TEMPORARY COMMITTEES BECOME PERMANENT COMMITTEES

In fact, the approval of Senate Resolution 448 would not only establish the precedent of creating new special and select committees, it would establish an even more dangerous precedent of how to do it. This is the backdoor method of first becoming a temporary committee. This procedure gives you the resources and the staff to petition the Senate every two years for an extension of your charter. Then after one or two extensions as a temporary committee, you are ready to come to the Senate and petition to become a permanent committee.

The case of the Temporary Select Committee on Indian Affairs is a textbook example. When the committee reorganization of 1977 took effect, it provided for a number of transitional measures. One of thes transitional arrangements was the Temporary Select Committee on Indian Affairs.

Specifically the Senate agreed to the Temporary Select Committee on Indian Affairs as a transitional body for the 95th Congress only. Its purpose was to receive the recommendations of the American Indian Policy Review Commission which was about to issue its report. At the end of the 95th Congress, the jurisdiction of the temporary select committee was to be transferred to the Committee on Labor and Human Resources. To no one's surprise, however, at the end of the 95th Congress, the Temporary Select Committee on Indian Affairs petitioned the Senate for a two year extension on its charter. Unfortunately, at that time, the Senate took the easy way out and granted the temporary select committee an extension for the 96th Congress.

We all know that once established a temporary committee naturally establishes a clientele and a staff who develop an expertise not only in

the subject matter, but in the politics of committee self-perpetuation. It is the most human of tendencies. Indeed numerous committees of narrow jurisdiction exist today in both the House and the Senate as monuments to the endurance of so-called temporary committees. Only on rare occasions of crisis and support for radical reorganization can Congressional committees be retired.

At the end of the 95th Congress, I opposed the 2-year extension for the Temporary Select Committee on Indian Affairs in part because it was obvious that at the end of the 96th Congress, they would come before the Senate again and seek either permanent status or another extension. Now the other shoe of this little drama is about to drop.

We are being asked to ignore both the rules and past decisions of the Senate on this issue in order to make the temporary select committee a permanent select committee because of the special circumstances and unique situation involved in this case. In fact, this is not a special situation. As I have shown, it is a situation that is going to arise time and time again.

Thus the real question is whether the Senate is once again going to take the easy way out and in doing so establish two precedents that will make it virtually impossible to prevent the proliferation of other special and select committees in the future. The first precedent is that after an appropriate period of time, temporary committees can expect to become permanent committees. The second precedent is that the Senate is quite willing to establish special or select committees of narrow jurisdiction to handle an issue even if that issue could be handled more efficiently and more effectively through the existing committee structure.

Instead I call upon my colleagues to establish two different precedents by rejecting Senate Resolution 448. The first precedent is that temporary committees are in fact temporary committees and not merely subterfuges to be used in creating a permanent committee. The second precedent is that problems should be dealt with within the current committee structure and if a sufficient number of Senators feel that a problem is not receiving adequate consideration they should work to correct this situation within the current committee structure. For example the 95th Congress decided that the special problems of Native Americans should be centralized and that such problems could be dealt with most effectively and efficiently on a permanent basis within the Committee on Labor and Human Resources. I believe this is still the case. Equally important, however, I believe that only by establishing these two precedents will the Senate have any hope of resisting the natural tendency to create more and more new special and select committees and thus steadily diminish the effectiveness and the efficiency of the entire Senate.

EXEMPTION OF THE CURRENT MEMBERS OF THE SELECT COMMITTEE FROM THE LIMITATIONS ON COMMITTEE ASSIGNMENTS IS UNWISE, UNFAIR, AND UNNECESSARY

As originally introduced Senate Resolution 448 continued a special exemption which provides that service as a member or chairman of the Temporary Select Committee on Indian Affairs shall not be taken

into account for the purposes of the limitations on the number of committee assignments, subcommittee assignments or chairmanships that may be held by any Senator. As reported by the Rules Committee, the resolution would merely grandfather the current members of the temporary select committee if such actions are approved by their respective party caucuses. While the committee amendment is certainly an improvement, it does not change the fact that current members of the temporary select committee are being afforded special treatment that is quite likely to result in their exemption from the limitations on service. I believe that this de facto exemption from the limitations on service is unwise, unfair, and unnecessary.

In many ways the limitations on service are the cornerstone of the reforms achieved through the Committee Reorganization Amendments of 1977. The rule is a tough one. It stops the proliferation of Senator's assignments directly, and the proliferation of committees and subcommittees indirectly, by strictly limiting each Senator to an equal number of major and minor committee assignments. In this way it forms the first line of defense against the fragmentation, disorder, and imbalances that characterized the committee system prior to the 1977 amendments. Thus it is extremely unwise to casually grant exemptions to these rules and thereby steadily chip away at the 1977 reforms.

At present each of the Senators who serve on the Temporary Select Committee on Indian Affairs also serve on one other minor committee. This is permissible because service on the temporary select committee is currently not taken into account for the purpose of the rules on limitations on service. The reason for this exemption is because the select committee is a temporary committee and it was felt that Senators should be free to serve on a temporary committee without giving up membership on a permanent committee.

If the Senate adopts Senate Resolution 448 and makes the temporary select committee a permanent committee, this justification for exempting the membership of the select committee from the limitations on service will end. At this point membership on the Select Committee on Indian Affairs should be treated in exactly the same manner as membership on similar select or special committees such as the Special Committee on Aging, the Select Committee on Intelligence, the Select Committee on Small Business, and the Joint Economic Committee.

Under the rules, this would mean that the current members of the Temporary Select Committee on Indian Affairs would have to choose between surrendering their membership on that committee or surrendering their conflicting membership on another minor committee.

Unfortunately the current members of the Temporary Select Committee on Indian Affairs are unwilling to pursue a resolution making the temporary select committee a permanent select committee if that means that they will have to give up their other minor committee assignments. Instead they seek a special exemption so that they may serve on two minor committees.

It seems to me that if a Senate committee is worth having and if a Senate committee is worth a Senator's service, it should be worth having within the rules. If a Senator is willing to serve only under an exception to the rules then perhaps the new committee is not worth

having in the first place. At the very least, Senators who are willing to serve on such a committee only if they are granted an exception should give first choice for service on the new committee to a Senator who believes such an assignment is worth one of those permitted.

The proponents of Senate Resolution 448 may argue that the resolution, as reported by the committee, does not grant the current members of the temporary select committee an automatic exemption. Instead any such exemption must be approved by this respective party caucuses. This is an improvement, but I fear the requirement for approval by the respective party caucuses may prove to be merely a requirement in form rather than in substance.

In reality this requirement for approval by the respective party caucuses is only another example of a tried and true mechanism for circumventing the rules. It is, in short, merely another mechanism for passing the buck. In this case we merely pass the buck off to the party caucuses. This mechanism allows us to partially dance out of the appearance of violating the rules. In reality, however, we are still creating a special exception for the current members of the temporary select committee.

This special exception is as unfair as it is unwise. Why should there be a special exception for service on the Select Committee on Indian Affairs and none for service on the Committees on Aging, Intelligence, Small Business, and the Joint Economic Committee? If the current members of the temporary select committee are to be allowed to serve on two minor committees, why should not any other Senator be allowed to do the same? Indeed, why should we give an extra committee assignment to these Senators when many other Senators sacrificed so many important and politically attractive committee assignments in 1977 in order to comply with the rules? Similarly, why should the current members of the temporary select committee be allowed to serve on such committees without penalty while any future members of that committee will be subject to the limitations on committee assignments? And why should be require any future special or select committees to be subject to the limitations on committee assignments if we exempt the current members of the Temporary Select Committee on Indian Affairs?

Finally, the granting of such an exemption is not only unwise and unfair it is also unnecessary. Currently there are nine Senators who are eligible to serve on a minor committee, but do not do so because there are not a sufficient number of spaces to give an assignment to each Senator. There are also an additional three Senators who serve on no minor committee other than the Ethics Committee which is currently exempted from the limitations on service because of the special nature of its duties. Then, of course, there may be a number of Senators who would be willing to surrender an assignment on another minor committee in order to serve on a permanent Select Committee on Indian Affairs. Finally, there are those Senators who will be new members of the 97th Congress and thus will have any committee assignments. Surely from this pool we will be able to find five qualified Senators who are interested in serving on the new select committee without the necessity of a special exemption. If not, it once again raises the question of whether we need a permanent select committee at all.

CONCLUSION

In these minority views, I have tried to set forth the true scope and meaning of the vote of Senate Resolution 448. It is not, as the resolution's proponents would have us believe, an isolated case, but rather the first of a number of attempts to create new special and select committees. For this reason it is particularly important that the Senate stand firm in protecting the hard won reforms of the Committee Reorganization Amendments of 1977.

Our action on Senate Resolution 448 will send a clear signal as to whether or not the Senate has the resolve to defend the reforms achieved in the 1977 amendments. It will also signal whether we intend to bring to an end the self-destructive practices of the past of (1) creating more and more new special and select committees and (2) assuring that ultimately all temporary committees become permanent committees. Adoption of the resolution would also represent a new hole in the principle that committee assignments should be distributed equally among all Senators. Finally, it would suggest that the previous decision of the Senate to provide Native Americans with effective and efficient consideration within the Committee on Labor and Human Resources was only a sham to give the temporary select committee time to launch one more effort to become a permanent committee.

The adoption of all these precedents is quite simply a repudiation of the Committee Reorganization Amendments of 1977. It is an admission that the Senate will reform itself when faced with a crisis but then will quickly forget those reforms and return to business as usual.

Worst of all, adoption of Senate Resolution 448 will make it much more difficult to resist requests for new committees and special exceptions to the limitations on committee assignments in the future. This will inevitably lead to a less orderly and efficient committee system and make it harder and harder for each Senator to control and efficiently use his or her time. Each proliferation in committee assignments outside the rules will simply create more conflicts in hearings and committee meetings and more rushing from one meeting to another, only to find a quorum lacking because Senators have an excessive number of assignments.

In essence, the proponents of Senate Resolution 448 are asking the Senate to take the easy way out. Just make this small exception and don't worry about the consequences in the future. The Senate should not start down that road, especially in this case in which the Senate has already made the decision that the legitimate and pressing needs of Native Americans can be handled more effectively and more efficiently under the current committee system.

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